

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

3. Based on reports from the petitioner's doctors, the Department determined that the petitioner was temporarily unable to work due to depression and fatigue following her

hospitalization. However, based on those same reports, the Department concluded that the petitioner would be able to return to work sometime before June 2007, one year from her hospitalization.

4. At a phone status conference held on December 8, 2006, the petitioner conceded that her disability was no more than "temporary", and that, in fact, she had already returned to work.

5. When the petitioner applied for medical benefits in July 2006, the Department found her eligible for VHAP while her application for Medicaid was being considered. The petitioner remained on VHAP when the Department denied her application for Medicaid in October 2006. The Department recently informed her that her VHAP will close because she is no longer income eligible for that program based on her return to work.

6. The petitioner does not dispute that she is currently gainfully employed and that her earnings are in excess of the VHAP maximum. She admits that she was not unable to work for more than a few months following her hospitalization in June. Unfortunately, her eligibility for VHAP as of July 2006 was not backdated to cover the sizable medical expenses she incurred in June.

ORDER

The Department's decision is affirmed.

REASONS

To be eligible for Medicaid a person between the ages of eighteen and sixty-five without minor dependants must establish that she is "disabled". W.A.M. § M211. That regulation defines "disability" as follows:

Individuals age 18 or older are considered disabled if they are unable to engage in any substantial gainful activity because of any medically determinable physical or mental impairment, or combination of impairments, that can be expected to result in death, or has lasted or can be expected to last for a continuous period of not fewer than 12 months. To meet this definition, individuals must have a severe impairment, which makes them unable to do their previous work or any other substantial gainful activity which exists in the national economy. To determine whether individuals are able to do any other work, the disability determination unit considers their residual functional capacity, age, education, and work experience.

As noted above, the petitioner in this matter was working when she was hospitalized in June 2006, and as of the date of her hearing in December 2006, she had returned to work. Therefore, it cannot be concluded that the petitioner has met the duration requirement in the above regulation for a minimum 12-month period of inability to perform substantial and gainful work.

Although the petitioner was found eligible for VHAP for much of the period before she returned to work, that program did not cover the medical expenses she incurred in June, before she had applied for any benefits. Unlike Medicaid, which allows for retroactive coverage for up to three months prior to the date of application (and which would have, therefore, covered the petitioner's June expenses had she been found eligible for that program), eligibility for VHAP coverage can only start "effective the day eligibility is approved". W.A.M. § 4002.31. In this case, it appears that the petitioner was found eligible for VHAP shortly after she applied sometime in July 2006. Unfortunately, this was too late to cover the substantial medical expenses she had already incurred in June.

Inasmuch as the Department's decision in this matter is consistent with the facts and the applicable regulations, it must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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